

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL DIONNE,

Plaintiff,

v.

BARBARA SAMPSON, et. al.,

Defendants,

Civil Action No. 2:11-CV-10602
HONORABLE VICTORIA A. ROBERTS
UNITED STATES DISTRICT COURT

**OPINION AND ORDER GRANTING PLAINTIFF'S MOTION TO PROCEED
WITHOUT PREPAYMENT OF FEES ON APPEAL**

Plaintiff filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. On February 23, 2011, this Court summarily dismissed the complaint pursuant to 28 U.S.C. § 1915A(e)(2) and 28 U.S.C. § 1915(A), on the ground that Plaintiff had failed to state a claim upon which relief could be granted. *See Dionne v. Sampson*, No. 2011 WL 721849 (E.D. Mich. February 23, 2011). On March 23, 2011, this Court denied Plaintiff's motion to alter or to amend the judgment. On April 8, 2011, Plaintiff filed a notice of appeal regarding the Court's denial of his motion to alter or amend judgment. Plaintiff has also filed a motion to proceed on appeal without prepayment of fees.

28 U.S.C. § 1915(a)(3) indicates that an appeal may not be taken *in forma pauperis* if the trial court certifies in writing that is not taken in good faith. *See also McGore v. Wrigglesworth*, 114 F. 3d 601, 610 (6th Cir. 1997).

In determining whether an appeal under the *in forma pauperis* statute is taken in

good faith, the good faith standard is an objective one. *Nabkey v. Gibson*, 923 F. Supp. 117, 122 (W.D. Mich. 1990)(quoting *Coppedge v. United States*, 369 U.S. 438, 445 (1962)). The U.S. Supreme Court has interpreted good faith as stated in 28 U.S.C. § 1915 as simply meaning that the issue being appealed is “not frivolous.” *Davis v. Michigan Department of Corrections*, 746 F. Supp. 662, 667 (E.D. Mich. 1990)(quoting *Coppedge v. United States*, 369 U.S. at 445).

Plaintiff’s appeal has been undertaken in good faith, in that the issue being appealed is not frivolous. Accordingly, the Court will grant Plaintiff’s motion to proceed without prepayment of fees.

Accordingly, the motion to proceed without prepayment of fees [Dkt. # 9] is

GRANTED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: April 18, 2011

The undersigned certifies that a copy of this document was served on the attorneys of record and Michael Dionne by electronic means or U.S. Mail on April 18, 2011.

s/Carol A. Pinegar
Deputy Clerk